

THURSDAY, APRIL 21, 2011

TWENTY-SIXTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 9:00 a.m., and was called to order by Mr. Speaker Ramsey.

PRAYER

The proceedings were opened with prayer by Reverend Ottis Ball of Harriman Church of God in Harriman, Tennessee, a guest of Senator Yager.

PLEDGE OF ALLEGIANCE

Senator Yager led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 33

Senators present were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--33.

STANDING COMMITTEE REPORTS

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 720, 725 with amendment and 1448.

MCNALLY, Chairperson
April 19, 2011

The Speaker announced that he had referred Senate Bills Nos. 720, 725 with amendment and 1448 to the Committee on Calendar.

STATE AND LOCAL GOVERNMENT

MR. SPEAKER: Your Committee on State and Local Government begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 489, 599 with amendment, 741 with amendment, 954 and 1372 with amendment.

YAGER, Chairperson
April 19, 2011

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The Speaker announced that he had referred Senate Bills Nos. 489, 599 with amendment, 741 with amendment, 954 and 1372 with amendment to the Committee on Calendar.

COMMERCE, LABOR AND AGRICULTURE

MR. SPEAKER: Your Committee on Commerce, Labor and Agriculture begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 1745; also, recommend that Senate Bills Nos. 884, 1025 with amendment and 1027 with amendment be referred to Committee on Finance, Ways and Means.

JOHNSON, Chairperson
April 19, 2011

The Speaker announced that he had referred Senate Bill No. 1745 to the Committee on Calendar.

The Speaker announced that he had referred Senate Bills Nos. 884, 1025 with amendment and 1027 with amendment to the Committee on Finance, Ways and Means.

ENVIRONMENT, CONSERVATION AND TOURISM

MR. SPEAKER: Your Committee on Environment, Conservation and Tourism begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 1140 with amendment and 1288 with amendment; also, recommend that Senate Bill No. 1205 with amendment be referred to Committee on Finance, Ways and Means.

SOUTHERLAND, Chairperson
April 20, 2011

The Speaker announced that he had referred Senate Bills Nos. 1140 with amendment and 1288 with amendment to the Committee on Calendar.

The Speaker announced that he had referred Senate Bill No. 1205 with amendment to the Committee on Finance, Ways and Means.

GENERAL WELFARE, HEALTH AND HUMAN RESOURCES

MR. SPEAKER: Your Committee on General Welfare, Health and Human Resources begs leave to report that we have carefully considered and recommend for passage: Senate Joint Resolution No. 226; and House Joint Resolution No. 104.

CROWE, Chairperson
April 20, 2011

The Speaker announced that he had referred Senate Joint Resolution No. 226; and House Joint Resolution No. 104 to the Committee on Calendar.

TRANSPORTATION

MR. SPEAKER: Your Committee on Transportation begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 432 with amendments, 523 with amendments and 2029 with amendment; also, recommend that Senate Bills Nos. 266 with

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amendment, 365 with amendment, 650 with amendment, 664 with amendment, 672 with amendment, 1666 with amendment and 2077 with amendment be referred to Committee on Finance, Ways and Means.

TRACY, Chairperson
April 20, 2011

The Speaker announced that he had referred Senate Bills Nos. 432 with amendments, 523 with amendments and 2029 with amendment to the Committee on Calendar.

The Speaker announced that he had referred Senate Bills Nos. 266 with amendment, 365 with amendment, 650 with amendment, 664 with amendment, 672 with amendment, 1666 with amendment and 2077 with amendment to the Committee on Finance, Ways and Means.

GOVERNMENT OPERATIONS

MR. SPEAKER: Your Committee on Government Operations begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 157 with amendment, 187, 205 with amendment, 214, 225 with amendment and 232 with amendment; also, recommend that Senate Bills Nos. 224 with amendment and 1571 with amendment be referred to Committee on Finance, Ways and Means.

WATSON, Chairperson
April 20, 2011

The Speaker announced that he had referred Senate Bills Nos. 157 with amendment, 187, 205 with amendment, 214, 225 with amendment and 232 with amendment to the Committee on Calendar.

The Speaker announced that he had referred Senate Bills Nos. 224 with amendment and 1571 with amendment to the Committee on Finance, Ways and Means.

EDUCATION

MR. SPEAKER: Your Committee on Education begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 49 with amendment, 113 with amendment, 413, 414 with amendment, 426, 688 with amendment, 854 with amendment, 882 with amendment, 905 with amendment, 1426, 1438 with amendment, 1468 with amendment, 1471 with amendment, 1707 with amendment and 1709 with amendment; and Senate Joint Resolution No. 46; also, recommend that Senate Bills Nos. 712 with amendment, 1262 with amendment, 1671 with amendment and 1869 with amendment be referred to Committee on Finance, Ways and Means.

GRESHAM, Chairperson
April 20, 2011

The Speaker announced that he had referred Senate Bills Nos. 49 with amendment, 113 with amendment, 413, 414 with amendment, 426, 688 with amendment, 854 with amendment, 882 with amendment, 905 with amendment, 1426, 1438 with amendment, 1468 with amendment, 1471 with amendment, 1707 with amendment and 1709 with amendment; and Senate Joint Resolution No. 46 to the Committee on Calendar.

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The Speaker announced that he had referred Senate Bills Nos. 712 with amendment, 1262 with amendment, 1671 with amendment and 1869 with amendment to the Committee on Finance, Ways and Means.

PRESENTATION

Senator Summerville presented **Senate Joint Resolution No. 176** to Ms. Linda Mangrum.

MOTION

Senator Haynes moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Joint Resolution No. 277**, out of order, which motion prevailed.

INTRODUCTION OF RESOLUTION

Senate Joint Resolution No. 277 by Senator Haynes.
Memorials, Death -- Kenton Jarvis Hull, Jr.

On motion of Senator Haynes, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 277** was adopted.

A motion to reconsider was tabled.

MOTION

Senator Norris moved, pursuant to Rule 32 and Article II, Section 18 of the Constitution of the State of Tennessee, **House Bills Nos. 334, 338, 712, 713, 790, 974, 986, 1214 and 1858** be passed on first consideration, which motion prevailed.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 334 -- Wills -- As introduced, requires bonds of executors and administrators to include expenses for court costs, attorney's fees and other related expenses of administering the estate. Amends TCA Title 30, Chapter 1, Part 2.

House Bill No. 338 -- Nuisances -- As introduced, declares those dealing in antique, used or scrap jewelry and precious metals to be a nuisance if such dealers fail to comply with all requirements of the scrap jewelry and metal dealers law; allows a temporary injunction to be granted until such dealer provides an inventory to the court and agrees to comply with such law. Amends TCA Title 29, Chapter 3, Part 1 and Title 38, Chapter 1, Part 2.

House Bill No. 712 -- Courts, Juvenile -- As introduced, grants temporary jurisdiction to juvenile court when another court has previously had jurisdiction, including allowing emergency temporary orders in cases of dependency, neglect, abuse or orders of protection. Amends TCA Section 37-1-103.

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House Bill No. 713 -- Juvenile Offenders -- As introduced, amends various provisions regarding the transfer of juveniles to adult court and the Department of Children's Services' custody of such children; authorizes communication between the adult court and the juvenile court; clarifies provisions on home placement supervision of juveniles. Amends TCA Title 37, Chapter 1, Part 1.

House Bill No. 790 -- Civil Procedure -- As introduced, requires persons serving process to not have been convicted of a felony. Amends TCA Title 8 and Title 21, Chapter 1.

House Bill No. 974 -- Jails, Local Lock-ups -- As introduced, authorizes \$4.00 to be deducted from the wages of prisoners in a county workhouse in certain circumstances to satisfy judgments against the prisoner to make restitution to the victim. Amends TCA Section 41-2-129(c).

House Bill No. 986 -- Alcoholic Beverages -- As introduced, decreases from two to one the number of years that an individual, shareholder, or transferee must reside in Tennessee following an application for a retail liquor store license; decreases from 10 to five the number of years that an individual, shareholder, or transferee must have resided in Tennessee to receive a retail liquor store license. Amends TCA Title 57.

House Bill No. 1214 -- Annexation -- As introduced, requires municipality to notify affected property owners by mail of proposed extension of corporate limits under certain circumstances. Amends TCA Title 6, Chapter 51 and Title 6, Chapter 58, Part 1.

House Bill No. 1858 -- Civil Procedure -- As introduced, revises provisions for auctioneer's fee at judicial sales of real or personal property. Amends TCA Section 35-5-112.

MOTION

Senator Norris moved, pursuant to Rule 33 and Article II, Section 18 of the Constitution of the State of Tennessee, that **Senate Bill No. 2110** be passed on second consideration and be referred to the appropriate committee or held on the Clerk's desk, which motion prevailed.

SENATE BILL ON SECOND CONSIDERATION

The Speaker announced that the following bill passed second consideration and was referred to the appropriate committee or held on the Clerk's desk:

Senate Bill No. 2110 Local bill -- held on desk.

MOTION

Senator Norris moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 224, 225 and 227 through 275** be passed on first consideration and lie over, which motion prevailed.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 224 by Senator Burks.
Naming and Designating -- Designates May 15-23, 2011, as "Police Memorial Week" in Tennessee.

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Senate Joint Resolution No. 225 by Senator Tracy.

Memorials, Recognition -- Nissan North America, Inc., 2011 Energy Star Award.

Senate Joint Resolution No. 227 by Senators Berke and Bell.

Memorials, Government Officials -- Expresses opposition to State of Georgia's proposal to meet its water supply needs by diverting water away from the Tennessee River Basin.

Senate Joint Resolution No. 228 by Senators Berke and Watson.

Memorials, Professional Achievement -- Mai Bell Hurley, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 229 by Senators Berke and Watson.

Memorials, Professional Achievement -- Amanda Tidwell Buchanan, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 230 by Senators Berke and Watson.

Memorials, Professional Achievement -- Dr. Deborah Elwell Arkin, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 231 by Senators Berke and Watson.

Memorials, Professional Achievement -- Susan Stein, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 232 by Senators Berke and Watson.

Memorials, Professional Achievement -- Lynda Minks Hood, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 233 by Senators Berke and Watson.

Memorials, Professional Achievement -- Deanne Irvine, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 234 by Senators Berke and Watson.

Memorials, Professional Achievement -- Linda G. Harwell, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 235 by Senators Berke and Watson.

Memorials, Professional Achievement -- Scottie Goodman Summerlin, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 236 by Senators Berke and Watson.

Memorials, Professional Achievement -- Dr. Charlotte Boatwright, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 237 by Senators Berke and Watson.

Memorials, Professional Achievement -- Molly Sasse, 2011 Chattanooga Woman of Distinction.

Senate Joint Resolution No. 238 by Senator Tracy.

Memorials, Death -- Korley Davis.

Senate Joint Resolution No. 239 by Mr. Speaker Ramsey.

Memorials, Interns -- Grant Monroe.

Senate Joint Resolution No. 240 by Senator Berke.

Memorials, Professional Achievement -- Sheila Boyington, 2011 Chattanooga Woman of Distinction.

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Senate Joint Resolution No. 241 by Senator Faulk.

Memorials, Death -- Anthony Kaufmann.

Senate Joint Resolution No. 242 by Senator Yager.

Memorials, Academic Achievement -- Kristin Alexis Jeffers, Valedictorian, Scott High School.

Senate Joint Resolution No. 243 by Senator Yager.

Memorials, Academic Achievement -- Jacob Miles Sexton, Valedictorian, Scott High School.

Senate Joint Resolution No. 244 by Senator Yager.

Memorials, Academic Achievement -- James Tyler Wilson, Valedictorian, Scott High School.

Senate Joint Resolution No. 245 by Senator Yager.

Memorials, Academic Achievement -- Whitney Raven Posey, Salutatorian, Scott High School.

Senate Joint Resolution No. 246 by Senator Yager.

Memorials, Academic Achievement -- Daphne Lynn Bunch, Valedictorian, Scott High School.

Senate Joint Resolution No. 247 by Senator Yager.

Memorials, Academic Achievement -- Ashley Nichole Lowe, Valedictorian, Scott High School.

Senate Joint Resolution No. 248 by Senator Yager.

Memorials, Academic Achievement -- Dylan Richard Moore, Valedictorian, Scott High School.

Senate Joint Resolution No. 249 by Senator Yager.

Memorials, Academic Achievement -- Kelsey Renae Lowe, Valedictorian, Scott High School.

Senate Joint Resolution No. 250 by Senator Yager.

Memorials, Academic Achievement -- Afton Ciare Boles, Valedictorian, Scott High School.

Senate Joint Resolution No. 251 by Senator Yager.

Memorials, Academic Achievement -- Chelsey Morgan King, Valedictorian, Scott High School.

Senate Joint Resolution No. 252 by Senator Yager.

Memorials, Academic Achievement -- Preston Rodney Harness, Valedictorian, Scott High School.

Senate Joint Resolution No. 253 by Senator Yager.

Memorials, Academic Achievement -- Taylor Erin Buttram, Valedictorian, Scott High School.

Senate Joint Resolution No. 254 by Senator Yager.

Memorials, Academic Achievement -- Bailey Monroe Kirkpatrick, Valedictorian, Scott High School.

Senate Joint Resolution No. 255 by Senator Yager.

Memorials, Academic Achievement -- Bradley Aaron Brooks, Valedictorian, Scott High School.

Senate Joint Resolution No. 256 by Senator Yager.

Memorials, Academic Achievement -- Trevor Lee Stevens, Salutatorian, Scott High School.

Senate Joint Resolution No. 257 by Senator Yager.

Memorials, Academic Achievement -- Elissa Nichole Lowe, Salutatorian, Scott High School.

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Senate Joint Resolution No. 258 by Senator Yager.

Memorials, Academic Achievement -- Micah Nichole Hughett, Valedictorian, Scott High School.

Senate Joint Resolution No. 259 by Senator Yager.

Memorials, Academic Achievement -- Tiffany Ruth Ann Mullins, Valedictorian, Scott High School.

Senate Joint Resolution No. 260 by Senator Yager.

Memorials, Academic Achievement -- Kristin Ann Clark, Salutatorian, Scott High School.

Senate Joint Resolution No. 261 by Senator Yager.

Memorials, Academic Achievement -- Jared Reese Adkins, Valedictorian, Scott High School.

Senate Joint Resolution No. 262 by Senator Yager.

Memorials, Academic Achievement -- Bradley Dwayne Stephens, Salutatorian, Scott High School.

Senate Joint Resolution No. 263 by Senator Yager.

Memorials, Academic Achievement -- Devon Nicole Byrd, Salutatorian, Scott High School.

Senate Joint Resolution No. 264 by Senator Yager.

Memorials, Academic Achievement -- Shay Anderson, Valedictorian, Scott High School.

Senate Joint Resolution No. 265 by Senator Yager.

Memorials, Academic Achievement -- Heather Renee Bunch, Salutatorian, Scott High School.

Senate Joint Resolution No. 266 by Senator Yager.

Memorials, Academic Achievement -- Felecia Kay Duncan, Salutatorian, Scott High School.

Senate Joint Resolution No. 267 by Senator Yager.

Memorials, Academic Achievement -- Brogan Shaelee Phillips, Valedictorian, Scott High School.

Senate Joint Resolution No. 268 by Senator Yager.

Memorials, Academic Achievement -- Ashley Kay Lowe, Valedictorian, Scott High School.

Senate Joint Resolution No. 269 by Senator Yager.

Memorials, Academic Achievement -- Jasmine Rhea Hill, Valedictorian, Scott High School.

Senate Joint Resolution No. 270 by Senator Yager.

Memorials, Academic Achievement -- Lacey Olivia Carver, Valedictorian, Scott High School.

Senate Joint Resolution No. 271 by Senator Yager.

Memorials, Academic Achievement -- Randall Trey Stephens, Valedictorian, Scott High School.

Senate Joint Resolution No. 272 by Senator Yager.

Memorials, Academic Achievement -- Rhyen Keith Murley, Valedictorian, Scott High School.

Senate Joint Resolution No. 273 by Senator Yager.

Memorials, Academic Achievement -- Jodi LaShae Sexton, Valedictorian, Scott High School.

Senate Joint Resolution No. 274 by Senator Yager.

Memorials, Academic Achievement -- Ryan Scott Sauls, Salutatorian, Scott High School.

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Senate Joint Resolution No. 275 by Senator Overbey.

Memorials, Academic Achievement -- Courtney Bowers, Valedictorian, Heritage High School.

MOTION

Senator Norris moved, pursuant to Rule 21, **House Joint Resolutions Nos. 165, 235 through 244, 246 and 250 through 262**; and **Senate Joint Resolutions Nos. 206 through 223** lie over and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

RESOLUTIONS LYING OVER

The Speaker announced that the following resolutions passed second consideration and were referred to the appropriate committees or held on the desk, pursuant to Rule 21:

House Joint Resolution No. 165 -- General Assembly, Statement of Intent or Position -- Expresses support for wood products sourced from Tennessee's forests.

The Speaker announced that he had referred House Joint Resolution No. 165 to the Committee on Environment, Conservation and Tourism.

House Joint Resolution No. 235 -- Memorials, Personal Occasion -- Sarah Eva Goodman Sanders, ninetieth birthday.

The Speaker announced that he had referred House Joint Resolution No. 235 to the Committee on Calendar.

House Joint Resolution No. 236 -- Memorials, Academic Achievement -- John Eisenstein, Salutatorian, Lebanon High School.

The Speaker announced that he had referred House Joint Resolution No. 236 to the Committee on Calendar.

House Joint Resolution No. 237 -- Memorials, Academic Achievement -- Shareeda Van Straaten, Valedictorian, Watertown High School.

The Speaker announced that he had referred House Joint Resolution No. 237 to the Committee on Calendar.

House Joint Resolution No. 238 -- Memorials, Academic Achievement -- Azariah Parfaite, Salutatorian, Watertown High School.

The Speaker announced that he had referred House Joint Resolution No. 238 to the Committee on Calendar.

House Joint Resolution No. 239 -- Memorials, Academic Achievement -- Jordan Blackburn, Salutatorian, Cannon County High School.

The Speaker announced that he had referred House Joint Resolution No. 239 to the Committee on Calendar.

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House Joint Resolution No. 240 -- Memorials, Academic Achievement -- Damian Coomes, Valedictorian, Cannon County High School.

The Speaker announced that he had referred House Joint Resolution No. 240 to the Committee on Calendar.

House Joint Resolution No. 241 -- Memorials, Recognition -- Hixson Elementary School, 50th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 241 to the Committee on Calendar.

House Joint Resolution No. 242 -- Memorials, Recognition -- William Eggleston.

The Speaker announced that he had referred House Joint Resolution No. 242 to the Committee on Calendar.

House Joint Resolution No. 243 -- Memorials, Recognition -- Judy Peiser.

The Speaker announced that he had referred House Joint Resolution No. 243 to the Committee on Calendar.

House Joint Resolution No. 244 -- Memorials, Academic Achievement -- Stephen Hickson, Valedictorian, Lebanon High School.

The Speaker announced that he had referred House Joint Resolution No. 244 to the Committee on Calendar.

House Joint Resolution No. 246 -- Memorials, Recognition -- A. Schwab's Dry Goods Store.

The Speaker announced that he had referred House Joint Resolution No. 246 to the Committee on Calendar.

House Joint Resolution No. 250 -- Memorials, Academic Achievement -- Ben Cook, Salutatorian, Macon County High School.

The Speaker announced that he had referred House Joint Resolution No. 250 to the Committee on Calendar.

House Joint Resolution No. 251 -- Memorials, Personal Achievement -- Fredrick Elias "Eli" Hurt, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 251 to the Committee on Calendar.

House Joint Resolution No. 252 -- Memorials, Recognition -- Africa In April Cultural Awareness Festival.

The Speaker announced that he had referred House Joint Resolution No. 252 to the Committee on Calendar.

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House Joint Resolution No. 253 -- Memorials, Sports -- Liberty Technology Magnet High School boys' basketball team, TSSAA Division I Class AA State Champions.

The Speaker announced that he had referred House Joint Resolution No. 253 to the Committee on Calendar.

House Joint Resolution No. 254 -- Memorials, Professional Achievement -- Emily Cornett, Carter's Valley Elementary School Teacher of the Year.

The Speaker announced that he had referred House Joint Resolution No. 254 to the Committee on Calendar.

House Joint Resolution No. 255 -- Memorials, Professional Achievement -- Nora Barton, Teacher of the Year at Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 255 to the Committee on Calendar.

House Joint Resolution No. 256 -- Memorials, Professional Achievement -- Mary Jane Tunnell-Dubuque, Teacher of the Year at Clinch School.

The Speaker announced that he had referred House Joint Resolution No. 256 to the Committee on Calendar.

House Joint Resolution No. 257 -- Memorials, Professional Achievement -- Shasha Laster, Surgoinville Elementary School Teacher of the Year.

The Speaker announced that he had referred House Joint Resolution No. 257 to the Committee on Calendar.

House Joint Resolution No. 258 -- Memorials, Professional Achievement -- Sherry Seal, Teacher of the Year at Surgoinville Middle School.

The Speaker announced that he had referred House Joint Resolution No. 258 to the Committee on Calendar.

House Joint Resolution No. 259 -- Memorials, Death -- J.W. Salley.

The Speaker announced that he had referred House Joint Resolution No. 259 to the Committee on Calendar.

House Joint Resolution No. 260 -- Memorials, Professional Achievement -- Christopher Carr, Rogersville Middle School.

The Speaker announced that he had referred House Joint Resolution No. 260 to the Committee on Calendar.

House Joint Resolution No. 261 -- Memorials, Professional Achievement -- Carolyn Metz, Bulls Gap School.

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The Speaker announced that he had referred House Joint Resolution No. 261 to the Committee on Calendar.

House Joint Resolution No. 262 -- Memorials, Death -- Paul Emory Reed, M.D.

The Speaker announced that he had referred House Joint Resolution No. 262 to the Committee on Calendar.

Senate Joint Resolution No. 206 -- Memorials, Professional Achievement -- James Madison, 2010 Master Logger of the Year.

The Speaker announced that he had referred Senate Joint Resolution No. 206 to the Committee on Calendar.

Senate Joint Resolution No. 207 -- Memorials, Recognition -- William H. Coley, inducted into the Wilson County Agricultural Hall of Fame.

The Speaker announced that he had referred Senate Joint Resolution No. 207 to the Committee on Calendar.

Senate Joint Resolution No. 208 -- Memorials, Recognition -- Harold Edwin Stanford, inducted into the Wilson County Agricultural Hall of Fame.

The Speaker announced that he had referred Senate Joint Resolution No. 208 to the Committee on Calendar.

Senate Joint Resolution No. 209 -- Memorials, Recognition -- Moss Brothers Seed Company, inducted into the Wilson County Agricultural Hall of Fame.

The Speaker announced that he had referred Senate Joint Resolution No. 209 to the Committee on Calendar.

Senate Joint Resolution No. 210 -- Memorials, Academic Achievement -- John Michael Cook, Valedictorian, Wilson Central High School.

The Speaker announced that he had referred Senate Joint Resolution No. 210 to the Committee on Calendar.

Senate Joint Resolution No. 211 -- Memorials, Sports -- Clay County High School boys' basketball team, Region 4A Champions.

The Speaker announced that he had referred Senate Joint Resolution No. 211 to the Committee on Calendar.

Senate Joint Resolution No. 212 -- Memorials, Recognition -- Jim K. Lancaster, inducted into the Wilson County Agricultural Hall of Fame.

The Speaker announced that he had referred Senate Joint Resolution No. 212 to the Committee on Calendar.

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Senate Joint Resolution No. 213 -- Naming and Designating -- Designates Pink Palace Family of Museums in Memphis as West Tennessee Museum of Science and Technology.

The Speaker announced that he had referred Senate Joint Resolution No. 213 to the Committee on State and Local Government.

Senate Joint Resolution No. 214 -- Naming and Designating -- Names Tennessee National Guard Armory in Tullahoma in honor of Command Sergeant Major Howard Boswell.

The Speaker announced that he had referred Senate Joint Resolution No. 214 to the Committee on State and Local Government.

Senate Joint Resolution No. 215 -- Memorials, Retirement -- Raymond Walker, retirement as Executive Director of Rhea Economic and Tourism Council.

The Speaker announced that he had referred Senate Joint Resolution No. 215 to the Committee on Calendar.

Senate Joint Resolution No. 216 -- Memorials, Death -- Suzanne Chidester Johnson.

The Speaker announced that he had referred Senate Joint Resolution No. 216 to the Committee on Calendar.

Senate Joint Resolution No. 217 -- Memorials, Death -- Thurston Lee Smith.

The Speaker announced that he had referred Senate Joint Resolution No. 217 to the Committee on Calendar.

Senate Joint Resolution No. 218 -- Memorials, Academic Achievement -- Kevin Ross Shuel, Salutatorian, Stewart County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 218 to the Committee on Calendar.

Senate Joint Resolution No. 219 -- Memorials, Academic Achievement -- Kaitlyn Joy Warren, Valedictorian, Stewart County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 219 to the Committee on Calendar.

Senate Joint Resolution No. 220 -- Memorials, Death -- Sandy Bryan Hodge.

The Speaker announced that he had referred Senate Joint Resolution No. 220 to the Committee on Calendar.

Senate Joint Resolution No. 221 -- Constitutional Amendments -- Proposes additional language in Article II, Section 28 to explicitly prohibit the general assembly from levying, authorizing or otherwise permitting any state or local tax upon payroll or earned personal income or any state or local tax measured by payroll or earned personal income.

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The Speaker announced that he had referred Senate Joint Resolution No. 221 to the Committee on Judiciary.

Senate Joint Resolution No. 222 -- Constitutional Amendments -- Proposes an amendment to Article XI, Section 5 of the Constitution of the State of Tennessee concerning charitable lotteries to include certain veterans' organizations.

The Speaker announced that he had referred Senate Joint Resolution No. 222 to the Committee on Judiciary.

Senate Joint Resolution No. 223 -- Memorials, Death -- Chester White.

The Speaker announced that he had referred Senate Joint Resolution No. 223 to the Committee on Calendar.

MOTION

Senator Tracy moved that Rule 37 be suspended for the immediate consideration of **Senate Joint Resolution No. 238**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 238 -- Memorials, Death -- Korley Davis.

On motion of Senator Tracy, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 238** was adopted.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 1

Senate Joint Resolution No. 191 -- Memorials, Recognition -- Tom B. Hughes III, Athens 2011 Man of the Year.

Senate Joint Resolution No. 193 -- Memorials, Academic Achievement -- Samantha Lauren Bozarth, Salutatorian, Westmoreland High School.

Senate Joint Resolution No. 194 -- Memorials, Academic Achievement -- Brittany Leann Hauskins, Valedictorian, Westmoreland High School.

Senate Joint Resolution No. 195 -- Memorials, Academic Achievement -- Jonathan Byrd, Valedictorian, Westmoreland High School.

Senate Joint Resolution No. 196 -- Memorials, Academic Achievement -- Chelsea Kennedy, Valedictorian, Westmoreland High School.

Senate Joint Resolution No. 197 -- Memorials, Retirement -- Alvin Raymond Dunn, Sr.

Senate Joint Resolution No. 198 -- Memorials, Retirement -- Linda Ann Tollett Nipper.

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Senate Joint Resolution No. 199 -- Memorials, Recognition -- Stanley Rogers.

Senate Joint Resolution No. 202 -- Memorials, Academic Achievement -- Genevieve Iva Kupritz, Salutatorian, William Blount High School.

Senate Joint Resolution No. 203 -- Memorials, Academic Achievement -- Austin James Blodgett, Valedictorian, William Blount High School.

Senate Joint Resolution No. 204 -- Memorials, Academic Achievement -- Patrick Cashman, Salutatorian, Wilson Central High School.

Senate Joint Resolution No. 205 -- Memorials, Academic Achievement -- Austin Brown, Valedictorian, Wilson Central High School.

House Joint Resolution No. 232 -- Memorials, Recognition -- Harry Smith.

House Joint Resolution No. 233 -- Memorials, Death -- Sgt. 1st Class Ofren Arrechaga.

House Joint Resolution No. 234 -- Memorials, Recognition -- Alpha Kappa Alpha Sorority, Inc.

Senator Faulk moved that all Senate Joint Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 2

Senate Bill No. 494 -- Pharmacy, Pharmacists -- As introduced, expands statute providing for a prescription drug label that indicates the condition for which the drug is prescribed from applying only to elder persons to apply to any patient. Amends TCA Title 53, Chapter 10 and Title 63, Chapter 10.

Senator Norris declared Rule 13 on **Senate Bill No. 494**.

On motion, Senate Bill No. 494 was made to conform with **House Bill No. 198**.

On motion, House Bill No. 198, on same subject, was substituted for Senate Bill No. 494.

Senate Bill No. 1785 -- Workers' Compensation -- As introduced, changes the evidence requirement from a preponderance of the evidence to clear and convincing evidence for rebutting the presumption that drugs or alcohol were the proximate cause of an injury from a drug test result or the refusal to submit to a drug test. Amends TCA Title 50, Chapter 6 and Title 50, Chapter 9.

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Senate Bill No. 1853 -- Optometry -- As introduced, changes the name of the association that nominates members for the governor to appoint to the board of optometry. Amends TCA Title 63, Chapter 8.

Senator Faulk moved that all Senate Bills and House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

CALENDAR

Senate Bill No. 72 -- Public Health -- As introduced, requires the governor to designate one day each year as "Autism Awareness Recognition Day". Amends TCA Title 4.

On motion, Senate Bill No. 72 was made to conform with **House Bill No. 389**.

On motion, House Bill No. 389, on same subject, was substituted for Senate Bill No. 72.

Senator Crowe moved to amend as follows:

AMENDMENT NO. 1

AMEND in Section 1 of the printed bill by adding the language "during the month of April" after the language "calendar year" and before the word "as".

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 389**, as amended, passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--33.

A motion to reconsider was tabled.

Senate Bill No. 483 -- Hospitals and Healthcare Facilities -- As introduced, adds designation of patient safety organizations to the incident reporting system for healthcare facilities statute. Amends TCA Title 33; Title 67; Title 68 and Title 71.

Senator Overbey declared Rule 13 on **Senate Bill No. 483**.

Senator Norris declared Rule 13 on **Senate Bill No. 483**.

Senator Crowe moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, is amended by adding the following as a new part:

Section 71-5-2001. This act shall be known and may be cited as the "Annual Coverage Assessment Act of 2011".

Section 71-5-2002. As used in this part, unless the context otherwise requires:

(1) "Annual coverage assessment" means the annual assessment imposed on covered hospitals as set forth in this part;

(2) "Annual coverage assessment base" is a covered hospital's net patient revenue as shown in its Medicare Cost Report for its fiscal year that ended during calendar year 2008 on file with the centers for Medicare and Medicaid services ("CMS") as of September 30, 2009, subject to the following qualifications:

(A) If a covered hospital does not have a full twelve (12) month Medicare Cost Report for 2008 on file with CMS as of September 30, 2009, but does have a full twelve (12) month Medicare Cost Report for 2008 on file as of September 30, 2010, the twelve (12) month Medicare Cost Report for 2008 on file with CMS as of September 30, 2010, will be the annual coverage assessment base;

(B) If a covered hospital does not have a full twelve (12) month Medicare Cost Report on file with CMS for 2008, but does have a Medicare Cost Report on file with CMS for 2009, that Medicare Cost Report will be the annual coverage assessment base. If the covered hospital's 2009 Medicare Cost Report is for a partial year only, the net patient revenue in such Medicare Cost Report shall be annualized to determine the hospital's annual coverage assessment base;

(C) If a covered hospital was first licensed in 2010 or later and did not replace an existing hospital, the annual coverage assessment base is the covered hospital's projected net patient revenue for its first full year of operation as shown in its certificate of need application filed with the health services and development agency;

(D) If a covered hospital was first licensed in 2010 or later and replaced an existing hospital, the annual coverage assessment base shall be the predecessor hospital's net patient revenue as shown in its

Medicare Cost Report for its fiscal year that ended during calendar year 2008 on file with CMS as of September 30, 2009, subject to the qualifications of subdivisions (2)(A) and (2)(B) above;

(E) If a covered hospital is not required to file an annual Medicare Cost Report with CMS, then its annual coverage assessment base shall be its net patient revenue for the fiscal year ending during calendar year 2008 as shown in the covered hospital's joint annual report filed with the Department of Health;

(F) If a covered hospital's fiscal year 2008 Medicare Cost Report is not contained in the centers for Medicare and Medicaid services' healthcare cost report information system file dated September 30, 2009, and does not meet any of the other qualifications listed in § 71-5-2002(2) above, then the hospital shall submit a copy of the hospital's 2008 Medicare Cost Report to the Bureau of TennCare in order to allow for the determination of the hospital's net patient revenue for the state fiscal year 2011-2012 annual coverage assessment;

(3) "Bureau" means the Bureau of TennCare;

(4) "CMS" means the federal centers for Medicare and Medicaid services;

(5) "Controlling person" means a person who, by ownership, contract or otherwise, has the authority to control the business operations of a covered hospital. Indirect or direct ownership of ten percent (10%) or more of a covered hospital shall constitute control;

(6) "Covered hospital" means a hospital licensed under Title 33 or Title 68, as of the effective date of this act, except an excluded hospital;

(7) "Excluded hospital" means:

(A) A hospital that has been designated by CMS as a critical access hospital;

(B) A mental health hospital owned by the State of Tennessee;

(C) A hospital providing primarily rehabilitative or long-term acute care services;

(D) A children's research hospital that does not charge patients for services beyond that reimbursed by third party payors; and

(E) A hospital that is determined by TennCare as eligible to certify public expenditures for the purpose of securing federal medical assistance percentage payments;

(8) "Medicare Cost Report" means CMS-2552-96, the cost report for electronic filing of hospitals, for the period applicable as set forth in this section.

(9) "Net patient revenue" means the amount calculated in accordance with generally accepted accounting principles for hospitals that is reported on Worksheet G-3, Column 1, Line 3, of the Medicare Cost Report, excluding long-term care inpatient ancillary revenues.

Section 71-5-2003.

(a) There is imposed on each covered hospital licensed as of the effective date, an annual coverage assessment for Fiscal Year (FY) 2011-2012 as set forth in this part.

(b) The annual coverage assessment imposed by this part shall not be effective and validly imposed until the bureau has provided the Tennessee Hospital Association with written notice that includes:

(1) A determination from CMS that the annual coverage assessment is a permissible source of revenue that shall not adversely affect the amount of federal financial participation in the TennCare program;

(2) Approval from CMS for the distribution of additional payments to hospitals to offset unreimbursed TennCare costs as set forth in § 71-5-2005(d)(2); and

(3) The bureau's commitment to continue working with Tennessee hospitals to revise the current TennCare reimbursement methodology to reduce the amount of variation in hospital payments for the same or similar services provided to TennCare enrollees without increasing or decreasing the total amount expended for hospital services by the TennCare program.

(c) The general assembly intends that the proceeds of the annual coverage assessment not be used as a justification to reduce or eliminate the state funding to the TennCare program. To this end, the annual coverage assessment shall not be effective and validly imposed if the coverage or the amount of revenue available for expenditure by the TennCare program in FY 2011-2012 is less than:

(1) The Governor's FY 2011-2012 recommended budget level, plus

(2) All annual appropriations made by the general assembly to the TennCare program for FY 2011-2012, except to the extent new federal funding is available to replace funds that are appropriated as described in the preceding item (1) and that are above the amount that the state receives from CMS under the regular federal matching assistance percentage.

(d)(1) The general assembly intends that the proceeds of the annual coverage assessment not be used as justification for any TennCare managed care organization to implement across-the-board rate reductions to negotiated rates with covered or excluded hospitals or physicians in existence on July 1, 2011. To this end, for those rates in effect on July 1, 2011, the bureau shall include provisions in the managed care organizations' contractor risk agreements that prohibit the managed care organizations from implementing across-the-board rate reductions to covered or excluded network hospitals or physicians either by category or type of provider. The requirements of the preceding sentence shall also apply to services or settings of care that are ancillary to a covered or excluded hospital or physician's primary license, but shall not apply to reductions in benefits or reimbursement for such ancillary services if (A) such reductions are different from those items being restored in § 71-5-2005(d), and (B) such reductions have been communicated in advance of implementation to the general assembly and the Tennessee Hospital Association. For purposes of this subsection, services or settings of care that are ancillary to a covered or excluded hospital or physician's primary license shall include all services where the physician or covered or excluded hospital, including a wholly-owned subsidiary or controlled affiliate of a covered or excluded hospital or hospital system, holds more than a fifty percent (50%) controlling interest in such ancillary services or settings of care, but shall not include any other ancillary services or settings of care. For across-the-board rate reductions to ancillary services or settings of care, the bureau shall include appropriate requirements for notice to providers in the managed care organizations' contractor risk agreements. For purposes of this subsection (d), services or settings of care that are "ancillary" shall mean, but not be limited to, ambulatory surgical facilities, outpatient treatment clinics or imaging centers, dialysis centers, home health and related services, home infusion therapy services, outpatient rehabilitation or skilled nursing services. For purposes of this subsection (d), "physician" includes a physician licensed under Title 63, Chapter 6 and Chapter 9 and a group practice of physicians that hold a contract with a managed care organization.

(2) This subsection (d) does not preclude good faith negotiations between managed care organizations and covered or excluded hospitals, hospital systems and physicians on an individualized, case-by-case basis, nor is this subsection (d) intended by the general assembly to serve as justification for Tennessee managed care organizations, covered or excluded hospitals, hospital systems or physicians to unreasonably deny any party the ability to enter into such individualized, case-by-case good faith negotiations. Such good faith negotiation necessarily implies mutual cooperation between the negotiating parties and may include, but is not limited to, the right to terminate contractual agreements, the ability to modify negotiated rates, pricing or units of service, the ability to alter payment methodologies, and the ability to enforce existing managed care techniques or implement new managed care techniques.

(3) Notwithstanding the other provisions of this subsection (d), if CMS mandates a TennCare program change or a change is required by federal law that impacts rates and that is required to be implemented by the MCOs in accordance with their contracts, or the annual coverage assessment becomes invalid, then nothing in this part shall prohibit the managed care organizations from implementing any rate changes as may be mandated by TennCare or federal law.

Section 71-5-2004.

(a) The annual coverage assessment established for this part shall be four and fifty-two hundredths percent (4.52%) of a covered hospital's annual coverage assessment base.

(b) The annual coverage assessment shall be paid in equal quarterly installments, with the first quarterly payment due on the fifteenth day of the first month of the first quarter of the state fiscal year after the bureau has obtained the determination and approval from CMS described in § 71-5-2003(b). Subsequent installments shall be due on the fifteenth day of the first month of the three (3) successive calendar quarters following the calendar quarter in which the first installment is due.

(c) To facilitate collection of the annual coverage assessment, the bureau shall send to each covered hospital, at least thirty (30) days in advance of each quarterly payment due date, a notice of payment along with a return form developed by the bureau. Failure of a covered hospital to receive a notice and return form, however, shall not relieve a covered hospital from the obligation of timely payment. The bureau shall also post the return form on its Web site.

(d) Failure of a covered hospital to pay a quarterly installment of the annual coverage assessment when due shall result in an imposition of a penalty of five hundred dollars (\$500) per day until such installment is paid in full.

(e) If a covered hospital ceases to operate after July 1, 2011, and before July 1, 2012, its total annual coverage assessment shall be equal to its annual coverage assessment base multiplied by a fraction, the denominator of which is the number of calendar days from July 1, 2011, until July 1, 2012, and the numerator of which is the number of days from July 1, 2011, until the date the Tennessee division of healthcare facilities has recorded as the date that the hospital ceased operation.

(f) If a covered hospital ceases operation prior to payment of its full annual coverage assessment, then the person or persons controlling the hospital as of the date the hospital ceased operation shall be jointly and severally responsible for any remaining annual coverage assessment installments and unpaid penalties associated with previous late payments.

(g) If a covered hospital fails to pay a quarterly installment of the annual coverage assessment within thirty (30) days of its due date, the bureau shall report such failure to the department which licenses the covered hospital.

Notwithstanding any other law, failure of a covered hospital to pay a quarterly installment of the annual coverage assessment or any refund required by this part shall be considered a license deficiency and grounds for disciplinary action as set forth in the statutes and rules under which the covered hospital is licensed.

(h) In addition to the action required by subsection (g), the bureau is authorized to file a civil action against a covered hospital and its controlling person or persons to collect delinquent annual coverage assessment installments, late penalties and refund obligations established by this part. Exclusive jurisdiction and venue for a civil action authorized by this subsection (h) shall be in the chancery court for Davidson County.

(i)(1) If any federal agency with jurisdiction over this annual coverage assessment determines that the annual coverage assessment is not a valid source of revenue or that the methodology for distribution of the additional payments to hospitals from the annual coverage assessment is not valid after an installment has been collected, or if there is a reduction of the coverage and funding of the TennCare program contrary to § 71-5-2003(c), or if one (1) or more managed care organizations impose rate reductions contrary to § 71-5-2003(d), then:

(A) The bureau shall refund to covered hospitals all installment payments previously collected within forty-five (45) days of such event;

(B) No subsequent installments of the annual coverage assessment shall be due and payable; and

(C) Covered hospitals that received payments pursuant to § 71-5-2005(d)(2) shall refund to the bureau all such payments within forty-five (45) days of such event, or shall establish a payment plan that has been approved by the bureau within forty-five (45) days of such event.

(2) The bureau will then have authority to make necessary changes to the TennCare budget to account for the loss of the annual coverage assessment revenue.

(j) A covered hospital or an association, the membership of which includes thirty (30) or more covered hospitals, shall have the right to file a petition for declaratory order pursuant to § 4-5-223 to determine if there has been a failure to satisfy one (1) of the conditions precedent to the valid imposition of the annual coverage assessment.

(k) A covered hospital may not increase charges or add a surcharge based on or as a result of the annual coverage assessment.

(l) Notwithstanding any other provision of this part, if the bureau receives from CMS notification of the determination and approval set forth in subsection (b) of § 71-5-2003, and if such determination and approval have retroactive effective dates, then:

(1) Quarterly annual coverage assessment payments that become due by application of the retroactive determination date from CMS shall be paid to the bureau within thirty (30) days of the bureau notifying the Tennessee Hospital Association that CMS has issued such determination; and

(2) Quarterly payments to covered hospitals required by § 71-5-2005(d)(2) that become due by application of the retroactive approval date from CMS shall be paid within fifteen (15) days of the bureau notifying the Tennessee Hospital Association that CMS has issued such approval.

Section 71-5-2005.

(a) The funds generated as a result of this act shall be deposited in the "Maintenance of Coverage Trust Fund" created by § 71-5-1005, the existence of which is continued by subsection (b) of this section. The fund shall not be used to replace any monies otherwise appropriated to the TennCare program by the general assembly or to replace any monies appropriated outside of the TennCare program.

(b) Notwithstanding the provisions of § 71-5-1006, the "Maintenance of Coverage Trust Fund" created by § 71-5-1005 shall continue without interruption and shall be operated in accordance with this section.

(c) The maintenance of coverage trust fund shall consist of:

(1) All annual coverage assessments received by the bureau;
and

(2) Investment earnings credited to the assets of the maintenance of coverage trust fund.

(d) Monies credited or deposited to the maintenance of coverage trust fund together with all federal matching funds shall be available to and used by the bureau only for expenditures in the TennCare program and shall include the following purposes:

(1) Expenditure for benefits and services under the TennCare program that would have been subject to reduction or elimination from TennCare funding for FY 2010-2011, except for the availability of one-time funding for that year only, as follows:

(A) Replacement of seven percent (7%) reduction in covered and excluded hospital and professional reimbursement rates proposed in the governor's FY 2011-2012 recommended budget;

(B) Maintenance of essential access hospital payments of at least one hundred million dollars (\$100,000,000);

(C) Maintenance of payments to critical access hospitals to achieve reimbursement of full cost of benefits provided to TennCare enrollees up to sixteen million dollars (\$16,000,000);

(D) Maintenance of payments for the graduate medical education of at least fifty million dollars (\$50,000,000);

(E) Maintenance of reimbursement for Medicare Part A crossover claims at the lesser of one hundred percent (100%) of Medicare allowable or the billed amount;

(F) Avoidance of a requirement that TennCare managed care organizations establish maximum reimbursement for providers based on one hundred percent (100%) of Medicare;

(G) Avoidance of any coverage limitations relative to the number of hospital inpatient days per year or annual cost of inpatient services for a TennCare enrollee;

(H) Avoidance of any coverage limitations relative to the number of non-emergency outpatient visits per year for a TennCare enrollee;

(I) Maintenance of the expansion of the "Standard Spend Down" category for TennCare enrollment up to a maximum of seven thousand (7,000) individuals in FY 2011-2012;

(J) Avoidance of any coverage limitations relative to the number of physician office visits per year for a TennCare enrollee;

(K) Avoidance of coverage limitations relative to the number of laboratory and diagnostic imaging encounters per year for a TennCare enrollee;

(L) Maintenance of coverage for occupational therapy, physical therapy and speech therapy services; and

(M) Making Medicaid disproportionate share hospital payments at the maximum amount authorized by the federal Social Security Act for FY 2011-2012;

(2)(A) Solely from the annual coverage assessment payments received by the bureau, payments to covered hospitals to offset losses incurred in providing services to TennCare enrollees as set forth in this subdivision (d)(2);

(B) Each covered hospital shall be entitled to payments for FY 2011-2012 of a portion of its unreimbursed cost of providing services to TennCare enrollees. Unreimbursed

TennCare costs are defined as the excess of cost over TennCare net revenue as reported on the hospital's 2009 joint annual report filed with the Department of Health. TennCare costs are defined as the product of a facility's cost-to-charge ratio times TennCare charges. The amount of the payment to covered hospitals shall be no less than fifty-two and twenty-six hundredths percent (52.26%) of unreimbursed TennCare cost for all hospitals licensed by the State of Tennessee excluding state-owned hospitals.

(C) The payments required by this subdivision (d)(2) shall be made in four (4) equal installments. Each installment payment shall be made by the third business day of four (4) successive calendar quarters, with the first calendar quarter to be the calendar quarter in which the annual coverage assessment is first levied in accordance with § 71-5-2004. The bureau shall provide to the Tennessee Hospital Association a schedule showing the quarterly payments to each hospital at least seven (7) days in advance of such payments;

(D) The payments required by this subdivision (d)(2) may be made by the bureau directly to the hospitals or the bureau may transfer the funds to one (1) or more managed care organizations with the direction to make payments to hospitals as required by this subsection. The payments to a hospital pursuant to this subdivision (d)(2) shall not be considered as part of the reimbursement to which a hospital is entitled under its contract with a TennCare managed care organization; and

(3) Refunds to covered hospitals on the basis of payment of annual coverage assessments or penalties to the bureau through error, mistake, or a determination that the annual coverage assessment was invalidly imposed.

(e) If a hospital closes or changes status from a covered hospital to an excluded hospital and consequently reduces the amount of the annual coverage assessment such that the amount is no longer sufficient to cover the total cost of the items included in subsection (d), the payments for these items may be adjusted by an amount equal to the shortfall including the federal financial participation. The items to be adjusted and the amounts of the adjustments shall be determined by the bureau in consultation with hospitals.

(f) The bureau shall modify the contracts with TennCare managed care organizations and otherwise take action necessary to assure the use and application of the assets of the maintenance of coverage trust fund, as described in subsection (d).

(g) The bureau shall submit requests to CMS to modify the Medicaid state plan, the contractor risk agreements or the TennCare II, Section 1115 demonstration project as necessary to implement the requirements of this part

without first submitting the proposed modifications to the Select Oversight Committee on TennCare as required by § 3-15-508.

(h) At quarterly intervals beginning September 1, 2011, the bureau shall submit a report to the Select Oversight Committee on TennCare, to the Finance, Ways and Means Committees of the Senate and House of Representatives, to the General Welfare, Health and Human Resources Committee of the Senate and to the Health and Human Resources Committee of the House of Representatives, which report shall include:

(1) The status if applicable of the determination and approval by CMS set forth in § 71-5-2003(b) of the annual coverage assessment;

(2) The balance of funds in the maintenance of coverage trust fund; and

(3) The extent of which the maintenance of coverage trust fund has been used to carry out this part.

(i) No part of the maintenance of coverage trust fund shall be diverted to the general fund or used for any purpose other than set forth in this part.

Section 71-5-2006. This act shall expire on June 30, 2012; provided, however, the following rights and obligations shall survive expiration of this act:

(1) The authority of the bureau to impose late payment penalties and to collect unpaid annual coverage assessments and required refunds;

(2) The rights of a covered hospital or an association of covered hospitals to file a petition for declaratory order to determine whether the annual coverage assessment has been validly imposed; and

(3) The existence of the maintenance of coverage trust fund and the obligation of the bureau to use and apply the assets of the maintenance of coverage trust fund.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 483**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0
Present, not voting . . .	1

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

Senator present and not voting was: Roberts--1.

A motion to reconsider was tabled.

Senate Bill No. 485 -- Education -- As introduced, enacts the "Equal Opportunity Scholarship Act". Amends TCA Title 49, Chapter 6.

Senator Gresham moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 3 of the bill in its entirety and substituting instead the following:

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Department" means the Department of Education;

(2) "Eligible student" means a low-income student who:

(A)(1) Resides in a Tennessee school district which is located in a county having a population in excess of three hundred thirty-five thousand (335,000) according to the 2010 federal census or any subsequent federal census; or

(2) Is currently enrolled in a school in the achievement school district;

(B) Was a member of a household whose total annual income during the year prior to initial receipt of a scholarship qualified or would have qualified the student as a low-income student; and

(C)(1) Attended a public school during the semester preceding the semester in which the student receives a scholarship under this part;

(2) Received a scholarship under this part during the preceding semester; or

(3) Is starting school in Tennessee for the first time;

(3) "Low-income student" means a student who is eligible for free or reduced price lunch under 42 U.S.C. § 1751 et seq.;

(4) "Parent" includes a guardian, custodian or other person with the authority to act on behalf of the child;

(5) "Participating school" means either a public school in the resident school district other than the school the eligible student is attending, a public charter school or any nonpublic school that is located in this state and is approved by the State Board of Education as a Category I, II, III or IV school in accordance with the applicable rules and regulations and has notified the department of its intention to enroll equal opportunity scholarship students and comply with all requirements regarding the award and use of equal opportunity scholarships; and

(6) "Resident school district" means the public school district in which the student resides.

AND FURTHER AMEND by deleting the language "Ninety-five percent (95%)" in subdivision (c)(2) of the amendatory language of Section 4 of the bill and substituting instead "Fifty percent (50%)".

AND FURTHER AMEND by deleting the language "ninety-five percent (95%)" in subdivision (j)(1) of the amendatory language of Section 4 of the bill and substituting instead the language "fifty percent (50%)".

AND FURTHER AMEND by deleting the language "; provided, that the student returns to the resident school district" from the amendatory language of subsection (d) of Section 4 of the bill.

Senator Gresham moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 1

AMEND by deleting subdivision (5) in the amendatory language of Section 3 and by substituting instead the language:

(5) "Participating school" means a public school in the resident school district other than the school the eligible student is attending. "Participating school" also means a public charter school or any nonpublic school that is located in this state and is approved by the State Board of Education as a Category I, II, III or IV school in accordance with the applicable rules and regulations. A public charter school or a nonpublic school shall notify the department of its intention to enroll equal opportunity scholarship students and comply with all requirements regarding the award and use of equal opportunity scholarships before being designated as a participating school; and

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

On motion, Amendment No. 1, as amended, was adopted.

Thereupon, **Senate Bill No. 485**, as amended, passed its third and final consideration by the following vote:

Ayes	18
Noes	10
Present, not voting . . .	4

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Berke, Burks, Finney, Harper, Haynes, Herron, Kyle, Marrero and Stewart--10.

Senators present and not voting were: Overbey, Tate, Woodson and Yager--4.

A motion to reconsider was tabled.

THURSDAY, APRIL 21, 2011 -- 26TH LEGISLATIVE DAY

Senator Finney moved that **Senate Bill No. 594** be placed at the heel of the Calendar for today, which motion prevailed.

Senator Overbey moved that **Senate Bill No. 611** be placed on the Calendar for Thursday, April 28, 2011, which motion prevailed.

MOTION

Senator McNally moved that Rule 37 be suspended for the immediate consideration of **House Joint Resolution No. 299**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 299 -- Memorials, Recognition -- League of Women Voters of Oak Ridge, 65th anniversary.

On motion of Senator McNally, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 299** was concurred in.

A motion to reconsider was tabled.

CALENDAR

Senator Overbey moved that **Senate Bill No. 798** be placed on the Calendar for Monday, April 25, 2011, which motion prevailed.

Senator Crowe moved that **Senate Bill No. 818** be placed on the Calendar for Thursday, April 28, 2011, which motion prevailed.

Senate Bill No. 845 -- Utilities, Utility Districts -- As introduced, creates a mechanism for a municipality or county to file a petition with the utility management review board to dissolve a utility district in certain circumstances. Amends TCA Title 7, Chapter 82.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 7-82-301, is amended by deleting the existing subsection (b) and by substituting the following language as a new subsection (b):

(b)(1) In the event no affirmative action is taken by a newly-formed utility district within one (1) year of the date of filing of order of creation, the county mayor may hold a hearing, after notification of the duly appointed commissioners, and determine if the utility district is proceeding with dispatch and diligence to provide the utility service or services it was authorized to provide in its order of creation. If the county mayor finds that the utility district

is not proceeding with dispatch and diligence to provide the utility service or services it was authorized to provide in its order of creation, then the county mayor shall enter an order dissolving the utility district. The president of the utility district shall file with the secretary of state, the utility management review board and the register of deeds of the county or counties in which the district is located, a true and correct copy of the order dissolving the utility district.

(2) In the event a utility district fails to render any of the services for which it was created within a period of four (4) years of the date of filing of order of creation and fails to acquire within such period any assets or facilities necessary to provide the utility service or services for which it was created, the utility district shall be dissolved by operation of law. The county mayor of the county in which the original petition for creation of the utility district was filed shall file a notice of dissolution with the secretary of state and upon such filing the utility district shall no longer be deemed to exist. The county mayor shall file with the utility management review board and the register of deeds of the county or counties in which the utility district is located, a true and correct copy of the notice of dissolution.

SECTION 2. Tennessee Code Annotated, Section 7-82-704, is amended by deleting the existing subsection (a) and by substituting the following as a new subsection (a):

(a)(1) When a utility district is financially distressed or is financially unable to expand the amount or type of service or services as set forth and described in its petition for creation pursuant to § 7-82-201, the utility management review board may consider the consolidation of the utility district with another utility district or districts, municipal utility system or county utility system to restore financial stability and to ensure continued operations for the benefit of the public being served by the utility district. The utility management review board may initiate and participate in negotiations among the utility district, any other utility district, municipal utility system or county utility system with whom the utility district may consolidate and any other affected parties concerning a consolidation. In the event the utility management review board determines that such a consolidation is in the best interest of the public being served by the utility district and the utility management review board is able to negotiate an agreement among all affected parties for the consolidation, the utility management review board shall enter an order approving the consolidation agreement and shall require the utility district to enter into the consolidation agreement. If the utility management review board determines that the utility district, any other utility district, municipal utility system or county utility system with whom the utility district may consolidate, or any other affected party, has refused or failed to enter into good faith negotiations on a consolidation, then the utility management review board shall petition the chancery court in a jurisdiction in which the utility district is operating to require the party or parties to engage in good faith negotiations concerning a consolidation.

(2) In the event the board of commissioners of the utility district does not enter into the approved consolidation agreement or fails to abide by the terms and conditions of the consolidation agreement, then the utility management review board shall petition the chancery court in a jurisdiction in

which the utility district is operating to enforce the utility management review board's order to require the board of commissioners to enter into the approved consolidation agreement and to abide by and implement all of the terms and conditions of the consolidation agreement.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 845**, as amended, passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--33.

A motion to reconsider was tabled.

Senator Campfield moved that **Senate Bill No. 1009** be placed on the Calendar for Thursday, April 28, 2011, which motion prevailed.

Senator Henry moved that **Senate Bill No. 1145** be placed on the Calendar for Thursday, April 28, 2011, which motion prevailed.

Senate Bill No. 1173 -- Insurance Companies, Agents, Brokers, Policies -- As introduced, requires that for purposes of determining the maximum dollar amount of an insurance policy when converting an insurance policy, the amount of such policy shall be rounded up to \$20.00 instead of \$10.00. Amends TCA Title 56.

Senator Tracy declared Rule 13 on **Senate Bill No. 1173**.

Senator Ketron declared Rule 13 on **Senate Bill No. 1173**.

Senator Ford declared Rule 13 on **Senate Bill No. 1173**.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 1 and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 56-8-104(16), is amended by deleting the language "or assigned risk plan, any information contained" and by substituting instead the following language:

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or assigned risk plan or through a plan depopulation initiative or other similar program, any information contained

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1173**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1225 -- Election Laws -- As introduced, calls for a run-off election in the event that there is a tie for county or civil district office. Amends TCA Title 2.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 1 of the bill in its entirety and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 2-8-111(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) The county legislative body shall cast the deciding vote for offices filled by the votes of a single county or civil district, or, in the alternative, the legislative body may by resolution call for a run-off election between the tied candidates;

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1225**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0
Present, not voting . . .	1

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

Senator present and not voting was: Stewart--1.

A motion to reconsider was tabled.

Senate Bill No. 1405 -- Flags -- As introduced, requires that P.O.W.-M.I.A. flag be displayed at state capitol and each county courthouse and city or town hall on any day U.S. flag is displayed at such buildings. Amends TCA Title 58, Chapter 4, Part 3.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 58-4-301, is amended by designating the existing language as subsection (a) and by adding the following language as a new subsection (b):

(b) In addition to the requirements of subsection (a), The P.O.W.-M.I.A. flag may be displayed over the state capitol in accordance with § 4-1-406 on any day the United States flag is displayed over the state capitol.

SECTION 2. Tennessee Code Annotated, Section 58-4-302, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) Any individual or group may donate a P.O.W.-M.I.A. flag to a county, municipal or state government.

(b) The P.O.W.-M.I.A. flag may be displayed on any day the United States flag is displayed, in accordance with § 58-4-301(b), or, in the case of a county or municipal government, at the following buildings:

(1) The courthouse or other building that serves as the main administrative building of the county; or

(2) The building that serves as the city or town hall or main administrative building of the municipality.

SECTION 3. Tennessee Code Annotated, Section 58-4-303, is amended by deleting the language "is donated for display at a public building" and by substituting instead the language "is displayed by a governmental entity pursuant to this part".

SECTION 4. Tennessee Code Annotated, Section 58-4-304, is amended by deleting the language "shall be displayed at public buildings in the state during normal business hours", and by substituting instead the language "if displayed, shall be displayed in accordance with this part during normal business hours".

SECTION 5. Tennessee Code Annotated, Section 58-4-305, is amended by deleting the section in its entirety.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

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Thereupon, **Senate Bill No. 1405**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1443 -- Education -- As introduced, requires the first AED received by a school to be placed in a location that can be readily accessed and particularly a location that can be readily accessed from areas used for physical education or activity. Amends TCA Section 49-2-122.

On motion, Senate Bill No. 1443 was made to conform with **House Bill No. 1633**.

On motion, House Bill No. 1633, on same subject, was substituted for Senate Bill No. 1443.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1633** passed its third and final consideration by the following vote:

Ayes	24
Noes	2
Present, not voting . . .	1

Senators voting aye were: Beavers, Bell, Burks, Faulk, Finney, Gresham, Haynes, Herron, Johnson, Kelsey, Ketron, Kyle, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--24.

Senators voting no were: Berke and Marrero--2.

Senator present and not voting was: Ford--1.

A motion to reconsider was tabled.

Senator Overbey moved that **Senate Bill No. 1464** be placed at the heel of the Calendar for today, which motion prevailed.

Senate Bill No. 1572 -- Fireworks -- As introduced, makes it a Class C misdemeanor for a person to sell or possess any airborne, unmanned device capable of producing an open flame not meeting the requirements of a Class B or Class C explosive. Amends TCA Title 68, Chapter 104, Part 1.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-104-101(9), is amended by deleting the subdivision in its entirety and substituting instead the following:

(9) "Special fireworks" means:

(A) All articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation;

(B) All articles of fireworks other than those classified as Class C; and

(C) Unmanned free-floating devices capable of producing an open flame such as, but not limited to, sky lanterns;

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

On motion of Senator Stewart, Amendment No. 2 was withdrawn.

Thereupon, **Senate Bill No. 1572**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senate Bill No. 1665 -- Emergency Communications Districts -- As introduced, makes 911 calls and transmissions of such calls confidential. Amends TCA Title 7, Chapter 86, Part 1 and Title 10, Chapter 7, Part 5.

Senator Haynes declared Rule 13 on **Senate Bill No. 1665**.

Senator Norris declared Rule 13 on **Senate Bill No. 1665**.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

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SECTION 1. Tennessee Code Annotated, Title 7, Chapter 86, Part 1, is amended by adding the following as a new section:

7-86-1___. Notwithstanding any other law to the contrary, all 911 calls and transmissions of such calls received pursuant to this chapter and all tapes containing records of such calls shall be a public record, except that any broadcast or republication of such calls is prohibited without the written consent of the caller whose voice is recorded or such caller's designated representative or legal guardian, or in compliance with a subpoena or an order of a court of record.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1665**, as amended, passed its third and final consideration by the following vote:

Ayes	23
Noes	8

Senators voting aye were: Beavers, Bell, Burks, Faulk, Finney, Gresham, Harper, Haynes, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--23.

Senators voting no were: Barnes, Berke, Ford, Herron, Kyle, Marrero, Overbey and Stewart --8.

A motion to reconsider was tabled.

Senate Bill No. 1710 -- Public Contracts -- As introduced, delays the implementation of last year's bill concerning the procurement commission and related topics; makes substantive changes in certain parts of last year's bill. Amends TCA Title 4, Chapter 56; Title 12, Chapter 3; Title 12, Chapter 4; Title 12, Chapter 2; Title 41, Chapter 22, Part 4; Title 71, Chapter 4, Part 7 and Chapter 1098 of the Public Acts of 2010.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 9 in its entirety and by substituting instead the following:

SECTION 9. (a) Tennessee Code Annotated, Title 12, Chapter 2, Part 2 and Part 4, are amended effective April 1, 2012, by changing all references to the "commissioner of general services" to the "chief procurement officer" and all references to the "board of standards" to the "procurement commission".

(b) Tennessee Code Annotated, Section 12-2-201(b)(1), is amended effective April 1, 2012, by deleting the language "department" in subdivision (C) and by substituting instead the language "procurement office".

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(c) Tennessee Code Annotated, Section 12-2-202, is amended effective April 1, 2012, by deleting the language "commissioner" wherever it may appear and by substituting instead the language "chief procurement officer".

(d) Tennessee Code Annotated, Section 12-2-203, is amended effective April 1, 2012, by deleting the terms "commissioner" and "commissioner's" wherever they may appear and by substituting instead the language "chief procurement officer" and "officer's" respectively.

(e) Tennessee Code Annotated, Section 12-2-206, is amended effective April 1, 2012, by deleting the language "commissioner" wherever it may appear and by substituting instead the language "chief procurement officer".

(f) Tennessee Code Annotated, Section 12-2-208, is amended effective April 1, 2012, by deleting the last sentence of subsection (b) and by substituting instead the following:

It is further declared unlawful for officers and employees designated by the office of procurement, in accordance with applicable regulations of the procurement commission, to buy or offer to buy any of the property to be sold hereunder.

(g) Tennessee Code Annotated, Section 12-2-407(a), is amended effective April 1, 2012, by deleting the language "department of general services" and by substituting instead the language "procurement office".

(h) Tennessee Code Annotated, Section 12-2-407(b), is amended effective April 1, 2012, by deleting the language "department of general services" wherever it may appear in subdivision (3) and by substituting instead the language "procurement office".

(i) Tennessee Code Annotated, Section 12-2-408, is amended effective April 1, 2012, by deleting the language "department of general services" and by substituting instead the language "procurement commission".

(j) Tennessee Code Annotated, Section 12-2-410, is amended effective April 1, 2012, by deleting the language "department of general services" and by substituting instead the language "procurement office".

AND FURTHER AMEND by deleting Section 15 in its entirety and by substituting instead the following:

SECTION 15. (a) Tennessee Code Annotated, Title 41, Chapter 22, Part 4, is amended by changing all references to the "board of standards" to the "procurement commission" and all references to the "commissioner of general services" to the "chief procurement officer" effective April 1, 2012.

(b) Tennessee Code Annotated, Section 41-22-406, is amended effective April 1, 2012, by deleting the last sentence of subsection (b) and by substituting instead the following:

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The TRICOR board of directors shall file the policies and procedures with the procurement commission for the commission's review and approval.

(c) Tennessee Code Annotated, Section 41-22-406(c), is amended effective April 1, 2012, by deleting the language "department of general services and is encouraged to exercise the option to purchase through the department" and by substituting instead the language "procurement office and is encouraged to exercise the option to purchase through the office".

(d) Tennessee Code Annotated, Section 41-22-414(b), is amended effective April 1, 2012, by deleting the language "through the department" and by substituting instead the language "through the procurement office".

AND FURTHER AMEND by adding the following new sections immediately preceding the last section and by renumbering the last section accordingly:

SECTION _____. Effective April 1, 2012, the Tennessee Code Commission is directed to change all references to the "board of standards" wherever located within Tennessee Code Annotated to the "procurement commission" as sections are amended or volumes are replaced.

SECTION _____. Tennessee Code Annotated, Section 4-56-108, as enacted by Chapter 1098 of the Public Acts of 2010, shall take effect April 1, 2012.

SECTION _____. Section 4 of Chapter 1098 of the Public Acts of 2010 is deleted in its entirety.

SECTION _____. Tennessee Code Annotated, Section 12-4-109(a)(1), is amended by deleting subdivisions (G)-(J), effective April 1, 2012.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1710**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1872 -- Election Laws -- As introduced, requires the state election coordinator to study the feasibility of permitting registered voters who reside outside the precinct listed as their permanent residence on their permanent voter registration card to vote only for candidates running for statewide office; the study will not address property rights voting; the coordinator must report the results of the study to the general assembly by February 28, 2012.

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Senate Bill No. 1872 passed its third and final consideration by the following vote:

Ayes	28
Noes	2
Present, not voting . . .	1

Senators voting aye were: Barnes, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Watson, Woodson, Yager and Mr. Speaker Ramsey--28.

Senators voting no were: Beavers and Bell--2.

Senator present and not voting was: Tracy--1.

A motion to reconsider was tabled.

Senate Bill No. 1921 -- Intellectual & Developmental Disabilities -- As introduced, requires that certain employers check the Department of Health abuse registry prior to hiring applicants. Amends TCA Title 33.

Senator Watson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 33-2-1202(c), is amended by adding the following as a new subdivision (3):

(3) The organization shall check the registry maintained by the Department of Health pursuant to § 68-11-1001 prior to employment of applicants or their use as a volunteer in the organization. No individual who is listed on the registry may be hired or otherwise permitted to provide services in the organization.

SECTION 2. Tennessee Code Annotated, Section 33-2-1202(e), is amended by adding the following as a new subdivision (e)(3):

(3) An organization which contracts with the Department of Intellectual and Developmental Disabilities shall check the registry maintained by the Department of Health pursuant to § 68-11-1001 prior to employment of applicants or their use as volunteers in the organization. No individual who is listed on the registry may be hired or otherwise permitted to provide services in the organization.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1921**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

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Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senator Ketron moved that **Senate Bill No. 626**, as amended, be rereferred to the Committee on Calendar, which motion prevailed.

Senator Beavers moved that **Senate Bill No. 756** be placed on the Calendar for Thursday, April 28, 2011, which motion prevailed.

Senate Bill No. 1031 -- Employees, Employers -- As introduced, prohibits any business or organization operating in this state from executing an agreement with a union or employee organization of any kind that includes a maintenance of membership clause prohibiting employees from withdrawing from a union or employee organization prior to the agreement's expiration. Amends TCA Title 50, Chapter 1, Part 2.

On motion, Senate Bill No. 1031 was made to conform with **House Bill No. 1605**.

On motion, House Bill No. 1605, on same subject, was substituted for Senate Bill No. 1031.

On motion of Senator Johnson, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1605** passed its third and final consideration by the following vote:

Ayes	21
Noes	9

Senators voting aye were: Beavers, Bell, Burks, Faulk, Gresham, Henry, Herron, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Kyle, Marrero and Stewart--9.

A motion to reconsider was tabled.

Senate Bill No. 1258 -- Physicians and Surgeons -- As introduced, establishes regulation of pain management clinics. Amends TCA Title 63, as amended.

Thereupon, **Senate Bill No. 1258**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris,

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Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1541 -- Hospitals and Healthcare Facilities -- As introduced, extends the tax on intermediate care facilities for the mentally retarded to July 15, 2013. Amends TCA Section 68-11-830.

Senate Bill No. 1541 passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senate Joint Resolution No. 226 -- Naming and Designating -- Designates May of 2011 as "Amyotrophic Lateral Sclerosis Awareness Month" in Tennessee.

Senate Joint Resolution No. 226 was adopted by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 594 -- Telecommunications -- As introduced, adds state government telephone subscribers to do not call registry. Amends TCA Title 65, Chapter 4, Part 4.

On motion, Senate Bill No. 594 was made to conform with **House Bill No. 1127**.

On motion, House Bill No. 1127, on same subject, was substituted for Senate Bill No. 594.

House Bill No. 1127 passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey,

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Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senate Bill No. 1464 -- Dentists and Dentistry -- As introduced, prohibits a dental insurance plan from requiring a participating dentist in the network to provide services to covered individuals at a fee set by the plan unless such services are covered services; defines covered service as one for which reimbursement is at least 50 percent of the dentist's prevailing fee. Amends TCA Title 56, Chapter 7, Part 10.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 10, is amended by adding the following language as a new, appropriately designated section:

56-7-10__.

(a) As used in this section:

(1) "Participating provider" means a dentist licensed to practice dentistry in this state, who provides dental services to an enrollee at a fee set by or at a fee subject to the approval of an insurer, dental services plan, third party administrator or any other party that contracts to provide dental services; and

(2) "Covered services" means dental care for which a reimbursement is available under the enrollee's plan contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, co-payments, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefits payments, or any other limitation.

(b) No contract offered by any insurer, dental service plan, third party administrator or other party that covers any dental services, and no contract or participating provider agreement with a dentist may require, directly or indirectly, that a dentist who is a participating provider, provide services to an enrollee at a fee set by, or at a fee subject to the approval of the dental service plan, insurer, third party administrator or other party that covers any dental plan services unless the dental services are covered services.

(c) No contract offered by any insurer, dental service plan, third party administrator or other party with a participating provider that covers any covered services may provide nominal or de minimis coverage for covered services under the contract for the sole purpose of avoiding the requirements of this section.

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SECTION 2. This act shall take effect upon becoming a law and shall apply only to contracts entered into or renewed on or after the effective date of this act.

On motion, Amendment No. 1 was adopted.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following language as a new subsection (f) at the end of the amendatory language of Section 1:

(f) Nothing in this section shall apply to the TennCare program and any medical assistance provided pursuant to Title 71, Chapter 5, or to the State Children's Health Insurance Program established under Title XXI of the Social Security Act, Subchapter XXI, Chapter 7 of Title 42, United States Code.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 1464**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

MESSAGE CALENDAR

Senator Ketron moved that **Senate Bill No. 16** be placed on the Message Calendar for Thursday, April 28, 2011, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 162 -- Sunset Laws -- As introduced, extends the real estate commission, June 30, 2013; requires completion of continuing education classes prior to the reactivation of temporarily retired licenses. Amends TCA Title 4, Chapter 29 and Title 62, Chapter 13.

HOUSE AMENDMENT NO. 2

AMEND by deleting in its entirety Section 3 and by substituting instead the following:

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

Senator Watson moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 162**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senator Watson moved that **Senate Bill No. 235** be returned to the House, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 237 -- Boards and Commissions -- As introduced, prohibits persons registered as lobbyists from serving as members of state boards, commissions or other governmental entities whose activities are regulated by such entities; requires members to be state residents; prohibits public members from having a direct or indirect affiliation with professions and industries being overseen or regulated. Amends TCA Title 4, Chapter 29, Part 1.

HOUSE AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 29, Part 1, is amended by adding the following as a new, appropriately designated section:

4-29-1__.

(a) Any person who is appointed or otherwise designated to serve as a member of a state board, commission or other governmental entity subject to review pursuant to this chapter shall be subject to the following:

(1)(A) Notwithstanding § 3-6-304, or any other law to the contrary:

(i) Any person registered as a lobbyist pursuant to the registration requirements of Title 3, Chapter 6, prior to serving as a member of a state board, commission or other governmental entity, shall terminate all employment and business association as a lobbyist with any entity whose business endeavors or professional activities are regulated or overseen by such state board, commission or other governmental entity. This subdivision (a)(1)(A)(i) shall apply to persons appointed or otherwise designated to serve on a state board, commission or other governmental entity on or after July 1, 2011;

(ii) No person who is a member of a state board, commission or other governmental entity shall be permitted to register or otherwise serve as a lobbyist pursuant to Title 3, Chapter 6, for any entity whose business endeavors or professional activities are regulated or overseen by such state board, commission or other governmental entity during the person's period of service as a member. This subdivision (a)(1)(A)(ii) shall apply to persons appointed or otherwise designated to serve on a state board, commission or other governmental entity on or after July 1, 2011, and to persons serving on such date who are not registered as lobbyists; and

(iii) No person who serves as a member of a state board, commission or other governmental entity shall be employed as a lobbyist by any entity whose business endeavors or professional activities are regulated or overseen by such state board, commission or other governmental entity for one (1) year following the date such person's service as a member ends. This subdivision (a)(1)(A)(iii) shall apply to persons serving on or after July 1, 2011, and to persons appointed to serve after such date.

(2) This subsection shall apply solely to state boards, commissions or other governmental entities that have statutory authority to direct, manage, supervise or conduct the affairs of an organization, entity, person or business.

(3) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if a lobbyist violates a provision of this subsection.

(4) The bureau of ethics and campaign finance is authorized to promulgate rules and regulations to effectuate the purposes of this subsection. Such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, and in accordance with the procedure for initiating and proposing rules by the ethics commission to the bureau of ethics and campaign finance as prescribed in § 4-55-103.

(b) Any person who is appointed or otherwise designated to serve as a member of a state board, commission or other governmental entity subject to review in accordance with this chapter shall be a resident of this state. This subsection shall apply to appointments made on or after July 1, 2011.

(c)(1) Any person who is appointed or otherwise designated to serve as a public member, citizen member or at-large member of a state board, commission or other governmental entity subject to review in accordance with this chapter shall have no direct or indirect affiliation

with any profession or industry that is regulated or overseen by such state board, commission or other governmental entity. A member who violates this subsection shall be subject to immediate removal by the appointing authority.

(2) Nothing in this section shall preclude a public member, citizen member or at-large member of a state board, commission or other governmental entity subject to review in accordance with this chapter from serving if the spouse or a family member of such member has a direct or indirect affiliation with any profession or industry that is regulated or overseen by such state board, commission or other governmental entity.

(3) This subsection shall apply to appointments made on or after July 1, 2011.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

Senator Watson moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 237**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1533 -- Intellectual & Developmental Disabilities -- As introduced, redefines "developmental disability" and "intellectual disability"; makes technical changes to reflect changes made by 2010 Public Chapters 734 and 1100. Amends TCA Title 2; Title 4; Title 5; Title 8; Title 10; Title 12; Title 13; Title 33; Title 37; Title 40; Title 48; Title 49; Title 55; Title 56; Title 63; Title 68 and Title 71, Chapter 6.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 2-12-114(b)(1)(D), is amended by deleting the language "and mental retardation" and substituting instead the language "intellectual and developmental disabilities".

SECTION 2. Tennessee Code Annotated, Section 4-3-2702(c), is amended by deleting the language "developmental disabilities" and by substituting instead the language "intellectual or developmental disabilities".

SECTION 3. Tennessee Code Annotated, Section 4-31-702, is amended by deleting the language "mental retardation" wherever it appears and by substituting in its place the following language "intellectual and developmental disabilities".

SECTION 4. Tennessee Code Annotated, Section 5-9-101, is amended in subdivision (3) by deleting the subdivision in its entirety and substituting instead the language: "For the support of people who are indigent or have mental illness or intellectual or developmental disabilities;" and is further amended in subdivision (24) by deleting the language "mentally ill and the mentally retarded" and by substituting instead the language "people with mental illness or intellectual or developmental disabilities".

SECTION 5. Tennessee Code Annotated, Section 8-30-208(b)(7), is amended by deleting the language "mental health/mental retardation institutions" and by substituting instead the language "mental health institutes or developmental centers".

SECTION 6. Tennessee Code Annotated, Section 10-7-504(c), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual and developmental disabilities".

SECTION 7. Tennessee Code Annotated, Section 12-2-117(a), is amended by deleting the following language from the first sentence "or developmental disabilities".

SECTION 8. Tennessee Code Annotated, Section 13-24-101(a), is amended by deleting the language "mentally retarded, mentally handicapped or physically handicapped persons" wherever it appears and by substituting instead the language "mentally handicapped persons or persons with intellectual or physical disabilities".

SECTION 9. Tennessee Code Annotated, Section 13-24-102, is amended by deleting "mentally retarded, mentally handicapped or physically handicapped persons" wherever it appears and by substituting instead the language "mentally handicapped persons or persons with intellectual or physical disabilities" and is further amended by deleting the word "houseparents" and by substituting instead "support staff".

SECTION 10. Tennessee Code Annotated, Section 33-1-101(10) and (11), are amended by deleting these subdivisions in their entirety and substituting therefore the following language:

(10) "Developmental center" means a department of intellectual and developmental disabilities facility or part of it that provides residential and habilitation services to persons with intellectual disabilities;

(11)(A) "Developmental disability" in a person over five (5) years of age means a condition that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Manifested before twenty-two (22) years of age;

(iii) Likely to continue indefinitely;

(iv) Results in substantial functional limitations in three (3) or more of the following major life activities:

- (a) Self-care;
- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction;
- (f) Capacity for independent living; or
- (g) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special interdisciplinary or generic services, supports, or other assistance that is likely to continue indefinitely and need to be individually planned and coordinated.

(B) "Developmental disability" in a person up to five (5) years of age means a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disability as defined for persons over five (5) years of age if services and supports are not provided;

SECTION 11. Tennessee Code Annotated, Section 33-1-101(16), is amended by deleting the subdivision in its entirety and substituting in its place the following language:

(16)(A) "Intellectual disability" means a mental impairment:

(i) Shown by significantly sub-average intellectual ability defined as an I.Q. of seventy (70) or below on an individually-administered I.Q. test;

(ii) That exists concurrently with related limitations in two (2) or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work; and

(iii) That is diagnosed or otherwise manifested before eighteen (18) years of age;

(B) "Intellectual Disability" means, until March 1, 2002, significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior that are manifested during the developmental period.

(C) References to "mental retardation" in all instances, notwithstanding other provisions of law, shall be deemed to be references to "intellectual disability";

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SECTION 12. Tennessee Code Annotated, Section 33-1-101(24), is amended by deleting the subdivision in its entirety and is further amended by renumbering the remaining subdivisions accordingly.

SECTION 13. Tennessee Code Annotated, Section 33-1-309(b), is amended by deleting the word "division" and by substituting instead the word "department".

SECTION 14. Tennessee Code Annotated, Section 33-2-402(4), is amended by deleting the language "deputy commissioner of health" and by substituting instead the language "deputy commissioner of mental health".

SECTION 15. Tennessee Code Annotated, Section 33-2-408(b)(3), is amended by adding the following language after the word "neglect" and before the word "or":

exploitation, misappropriation.

SECTION 16. Tennessee Code Annotated, Section 33-3-108(b), is amended by adding the language "misappropriation" after the word and punctuation "neglect", wherever it appears.

SECTION 17. Tennessee Code Annotated, Section 33-5-110(a), is amended by deleting the language "Tennessee division of intellectual disabilities services" and by substituting instead the language "Department of Intellectual and Developmental Disabilities".

SECTION 18. Tennessee Code Annotated, Section 33-5-110, is amended by deleting the language "DIDS" wherever it appears and by substituting instead the language "DIDD".

SECTION 19. Tennessee Code Annotated, Section 37-1-102(b)(23)(B), is amended by deleting the language "retardation" and by substituting instead the language "intellectual disability".

SECTION 20. Tennessee Code Annotated, Section 40-28-115(g)(1), is amended by deleting the language "retarded" and by substituting instead the language "intellectually disabled".

SECTION 21. Tennessee Code Annotated, Section 48-101-301(5) and (15)(E), is amended by deleting the language "physically or mentally retarded individuals" wherever it appears and by substituting instead the language "individuals with physical and/or intellectual disability".

SECTION 22. Tennessee Code Annotated, Section 48-101-302(b), is amended by deleting the language "physically and mentally retarded individuals" and by substituting instead the language "individuals with physical and/or intellectual disability".

SECTION 23. Tennessee Code Annotated, Section 48-101-308(a)(7) and (8), is amended by deleting the language "physically and mentally retarded individuals" wherever it appears and by substituting instead the language "individuals with physical and/or intellectual disability".

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SECTION 24. Tennessee Code Annotated, Section 49-2-115(b), is amended by deleting the language "mental health and mental retardation" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 25. Tennessee Code Annotated, Section 49-5-5004(c), is amended by deleting the language "mental health and mental retardation" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 26. Tennessee Code Annotated, Section 49-8-802(a), is amended by deleting the language "and mental health and mental retardation" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 27. Tennessee Code Annotated, Section 49-10-902(a)(2), is amended by deleting the language "the mentally retarded" and by substituting instead the language "people with intellectual disability".

SECTION 28. Tennessee Code Annotated, Section 55-50-323(a)(6)(B), is amended by deleting "mentally retarded or physically handicapped person" and by substituting instead "person with an intellectual or physical disability" and is further amended by deleting "mentally retarded person" and by substituting instead "person with an intellectual disability" and by deleting "retardation or physical handicap" wherever it appears and by substituting instead "intellectual or physical disability".

SECTION 29. Tennessee Code Annotated, Section 56-7-2503, is amended by deleting the language "mentally ill or mentally retarded persons" wherever it appears and by substituting instead the language "persons with mental illness or intellectual disability".

SECTION 30. Tennessee Code Annotated, Section 56-7-2601(b), (c)(1), and (e), are amended by deleting the language "mental retardation" wherever it occurs and by substituting instead the language "intellectual disability".

SECTION 31. Tennessee Code Annotated, Section 63-7-102(10)(B), is amended by deleting the language "persons with mental retardation" and by substituting instead the language "people with intellectual disabilities".

SECTION 32. Tennessee Code Annotated, Section 63-7-102(10)(C), is amended in the first sentence by deleting the language "the mentally retarded" and by substituting instead the language "people with intellectual disabilities".

SECTION 33. Tennessee Code Annotated, Section 63-11-208(e)(3) and (e)(4), are amended by deleting the language "mental retardation" wherever it occurs and by substituting instead the language "intellectual disability".

SECTION 34. Tennessee Code Annotated, Section 68-1-904(c)(1), is amended by deleting the language "persons with mental retardation" and by substituting instead the language "persons with intellectual disability" and by deleting the language "the mentally retarded" wherever it occurs and by substituting instead the language "persons who have intellectual disability".

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SECTION 35. Tennessee Code Annotated, Section 68-5-401(a)(1), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disability".

SECTION 36. Tennessee Code Annotated, Section 68-5-502(a), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disability".

SECTION 37. Tennessee Code Annotated, Section 68-5-504(b)(1), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disability".

SECTION 38. Tennessee Code Annotated, Section 68-11-705, is amended by deleting the language "mentally ill and mentally retarded persons" and by substituting instead the language "persons with mental illness or intellectual disability".

SECTION 39. Tennessee Code Annotated, Section 68-11-1602(7)(A), is amended by deleting the language "mental retardation institutional habilitation facility" and by substituting instead the language "intellectual disability institutional habilitation facility".

SECTION 40. Tennessee Code Annotated, Section 68-11-1625(f)(14), is amended by deleting the language "Mental retardation institutional habilitation facilities" and by substituting instead the language "Intellectual disability institutional habilitation facilities".

SECTION 41. Tennessee Code Annotated, Section 71-6-113(b), is amended by deleting the language "physical illness, mental retardation or developmental disabilities" and by substituting instead the language "physical illness, intellectual disability or developmental disabilities".

SECTION 42. Tennessee Code Annotated, Section 71-6-124(a)(1)(A), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disabilities" and is further amended by deleting the language "division of intellectual disabilities services (DIDS), Department of Finance and Administration" and by substituting instead the following language "the Department of Intellectual and Developmental Disabilities (DIDD)".

SECTION 43. Tennessee Code Commission is authorized to make changes to appropriate provisions of Tennessee Code Annotated in order to effectuate the intent of Public Chapters 734 and 1100 of the Public Acts of 2010, with respect to references to mental retardation and similar terms and the creation of the Department of Intellectual and Developmental Disabilities.

SECTION 44. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 45. This act shall take effect upon becoming a law, the public welfare requiring it.

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Senator McNally moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 1533**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 3

AMEND by deleting Section 11 of the bill as amended and by substituting instead the following as a new Section 11:

SECTION 11. Tennessee Code Annotated, Section 33-1-101(16)(A), is amended by inserting the language ", for the purposes of the general functions of the department as set forth in § 4-3-2701(b)", between the words "means" and "substantial".

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Title 33, Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section ____.

(a) Notwithstanding any provisions of state law to the contrary, eligibility criteria for medical assistance programs and services pursuant to Title 71, Chapter 5, for persons with intellectual or developmental disabilities shall be established by the Bureau of TennCare, and set forth in the Medicaid state plan, federal waivers, or in rules promulgated by the Bureau of TennCare, and shall be subject to the availability of funding in each year's "General Appropriations Act".

(b) Notwithstanding any provisions of state law to the contrary, eligibility criteria for state-funded programs and services for persons with intellectual or developmental disabilities shall be established by the Department of Intellectual and Developmental Disabilities and set forth in department rules, and shall be subject to the availability of funding in each year's "General Appropriations Act".

Senator McNally moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 1533**, which motion prevailed by the following vote:

Ayes 31
Noes 0

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Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

MOTION

Senator Norris moved that the Proposed Schedule for the week of April 25, 2011, be adopted and made the action of the Senate, which motion prevailed.

TENNESSEE STATE SENATE 107th GENERAL ASSEMBLY

PROPOSED SCHEDULE FOR THE WEEK OF APRIL 25, 2011

MONDAY – April 25

1:00 p.m.	Tax Sub-committee of Finance, Ways & Means Committee
2:30 p.m.	State & Local Government Committee
5:00 p.m.	Session – Senate Chamber

TUESDAY – April 26

8:30 a.m. – 10:30 a.m.	Finance, Ways & Means Committee
10:30 a.m. – 12:30 p.m.	State & Local Government Committee
12:30 p.m. – 1:00 p.m.	Lunch
1:00 p.m. – 3:30 p.m.	Commerce, Labor & Agriculture Committee
3:30 p.m. – 5:00 p.m.	Judiciary Committee

WEDNESDAY – April 27

8:30 a.m.	Joint Convention – Election of State Election Commission
9:00 a.m. – 11:30 a.m.	General Welfare, Health & Human Resources Committee
11:30 a.m. – 12:00 p.m.	Lunch
12:00 p.m. – 2:30 p.m.	Government Operations Committee
2:30 p.m. – 5:00 p.m.	Judiciary Committee

THURSDAY – April 28

9:00 a.m.	Session – Senate Chamber
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NOTE: Pre-Commerce meeting, Tuesday, April 26, 2011, at 7:30 a.m., Room 12 LP.

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Ad Hoc Committee on Senate District 15 Election Contest, Thursday, April 28, 2011, at 10:30 a.m., Room 12 LP.

Deadline for Amendments to the Appropriations Bill, Thursday, April 28, 2011, at the close of business.

RECALL OF BILL

On motion of Mr. Speaker Ramsey, **Senate Bills Nos. 439, 1203 and 2017** were recalled from the Committee on Calendar.

REFERRAL OF BILL

Mr. Speaker Ramsey moved that Senate Bills Nos. 439, 1203 and 2017 be referred to the Committee on Finance, Ways and Means, which motion prevailed.

MOTION

On motion of Senators Kyle, Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Bill No. 72**.

On motion of Senator Yager, his name was added as sponsor of **Senate Bill No. 483**.

On motion of Senator Johnson, his name was added as sponsor of **Senate Bills Nos. 485, 1031, 1032, 1258 and 1405**.

On motion of Senators Beavers and Johnson, their names were added as sponsors of **Senate Bill No. 632**.

On motion of Senators Kelsey, Gresham and Faulk, their names were added as sponsors of **Senate Bill No. 688**.

On motion of Senators Ketron and Tate, their names were added as sponsors of **Senate Bill No. 720**.

On motion of Senator Bell, his name was added as sponsor of **Senate Bill No. 1023**.

On motion of Senators McNally, Burks and Ketron, their names were added as sponsors of **Senate Bill No. 1265**.

On motion of Senator Summerville, his name was added as sponsor of **Senate Bill No. 1438; and Senate Joint Resolution No. 177**.

On motion of Senator Campfield, his name was added as sponsor of **Senate Bill No. 1869**.

On motion of Senator Finney, his name was added as sponsor of **Senate Joint Resolution No. 205**.

On motion of Senators Henry, Harper, Kyle, Berke and Herron, their names were added as sponsors of **Senate Joint Resolution No. 199**.

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On motion of Senators Herron, Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Joint Resolution No. 226**.

On motion of Senators Beavers and Roberts, their names were added as sponsors of **House Joint Resolution No. 232**.

On motion of Senator Barnes, his name was added as sponsor of **House Joint Resolution No. 233**.

On motion of Senators Marrero, Ford, Harper, Kyle and Berke, their names were added as sponsors of **House Joint Resolution No. 234**.

On motion of Senator Beavers, her name was added as sponsor of **House Joint Resolution No. 250**.

On motion of Senators McNally, Woodson and Yager, their names were added as sponsors of **House Joint Resolution No. 299**.

On motion, all Senators' names were added as sponsors of **Senate Bill No. 1921**.

ENGROSSED BILLS

April 21, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 483, 485, 845, 1173, 1225, 1258, 1405, 1464, 1541, 1572, 1665, 1710, 1785, 1853, 1872 and 1921; and Senate Joint Resolutions Nos. 191, 193, 194, 195, 196, 197, 198, 199, 202, 203, 204, 205, 226, 238 and 277; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 151, 300, 860, 980, 1284, 1329, 1586 and 1748; passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 276, 277, 278, 279, 280, 282, 284, 285, 286, 287, 289 and 306; adopted, for the Senate's action.

JOE MCCORD,
Chief Clerk.

THURSDAY, APRIL 21, 2011 -- 26TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 299, adopted, for the Senate's action.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 305, adopted, for the Senate's action.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 750, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1500, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1558, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1559 and 1811, substituted for House Bills on same subjects and passed by the House.

JOE MCCORD,
Chief Clerk.

THURSDAY, APRIL 21, 2011 -- 26TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1722, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 184, 185, 186, 187, 188, 189 and 190; concurred in by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 277, concurred in by the House.

JOE MCCORD,
Chief Clerk.

ENROLLED BILLS

April 21, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 162, 750, 1500, 1533, 1558, 1559, 1722 and 1811; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENROLLED BILLS

April 21, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 184, 185, 186, 187, 188, 189, 190 and 277; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

THURSDAY, APRIL 21, 2011 -- 26TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

April 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 377, 378, 424, 457, 620, 628, 642, 661, 1081 and 1739; for the signature of the Speaker.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 232, 233, 234 and 299; for the signature of the Speaker.

JOE MCCORD,
Chief Clerk.

SIGNED

April 21, 2011

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 184, 185, 186, 187, 188, 189, 190 and 277.

SIGNED

April 21, 2011

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 232, 233, 234 and 299.

MESSAGE FROM THE HOUSE

April 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 24, 207, 330, 490, 610, 717, 761, 1008, 1209 and 1532; signed by the Speaker.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 184, 185, 186, 187, 188, 189, 190 and 277; signed by the Speaker.

JOE MCCORD,
Chief Clerk.

THURSDAY, APRIL 21, 2011 -- 26TH LEGISLATIVE DAY

REPORT OF CHIEF ENGROSSING CLERK

April 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 24, 207, 330, 490, 610, 717, 761, 1008, 1209 and 1532; for his action.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

REPORT OF CHIEF ENGROSSING CLERK

April 21, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 184, 185, 186, 187, 188, 189, 190 and 277; for his action.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

April 21, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 83, 495, 742, 777, 892, 1154, 1155, 1227, 1312, 1537, 1544 and 1668; with his approval.

HERBERT H. SLATERY III,
Counsel to the Governor.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR # 1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, April 25, 2011: Senate Joint Resolutions Nos. 206, 207, 208, 209, 210, 211, 212, 215, 216, 217, 218, 219, 220 and 223; and House Joint Resolutions Nos. 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 246, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261 and 262.

This the 21st day of April, 2011.
MIKE FAULK, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR # 2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, April 25, 2011: Senate Bills Nos. 187, 214, 413, 426, 489, 954 and 1448; Senate Joint Resolution No. 122; and House Joint Resolution No. 104.

This the 21st day of April, 2011.
MIKE FAULK, Chairperson.

THURSDAY, APRIL 21, 2011 -- 26TH LEGISLATIVE DAY

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, April 25, 2011: Senate Bills Nos. 31, 32, 96, 157, 205, 225, 232, 393, 432, 472, 523, 599, 720, 1140, 1288, 2029, 45, 798 and 923; and Senate Joint Resolution No. 177.

This the 21st day of April, 2011.
MIKE FAULK, Chairperson.

ADJOURNMENT

Senator Norris moved the Senate adjourn until 5:00 p.m., Monday, April 25, 2011, which motion prevailed.